



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1995

Mr. James L. Hedrick
Potter, Minton, Roberts, Davis & Jones
P.O. Box 359
Tyler, Texas 75710

OR95-1626

Dear Mr. Hedrick:

The Tyler Health Facilities Development Corporation (the "corporation") received a request for records of the corporation. You have asked this office if these records are subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. You contend that the corporation is not a governmental body subject to the Open Records Act. Your request was assigned ID# 36052.

Section 552.003(1)(A)(x) and (B) provide that a governmental body includes:

(x) the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or is supported in whole or in part by public funds; and

(B) does not include the judiciary.

You state that the corporation was formed under the Health Facilities Development Act, chapter 221 of the Health and Safety Code. Section 221.011 provides that a sponsoring entity may create a development corporation for the purpose of acquiring, constructing, providing, improving, financing, and refinancing a health facility to assist in the maintenance of public health. A city, county, or district can be a sponsoring entity to create such a corporation. Health & Safety Code § 221.003(10). You state that the City of Tyler (the "city") is the corporation's sponsoring entity. Pursuant to section 221.036, the sponsoring entity may examine all of the corporation's records at any time.

You contend that the corporation is not subject to the Open Records Act because the City of Tyler "may not lend its credit or grant public money or other thing of value" to aid the corporation. *Id.* § 221.011(c); *see also id.* § 221.030(c) (sponsoring entity may not delegate to corporation powers of taxation or other state powers). However, we think this situation is similar to that addressed by this office in Open Records Decision No. 601 (1992). We determined that a public nonprofit housing corporation set up by a sponsoring city was supported by public funds and thus subject to the Open Records Act. *Id.* We noted that dissolution of the housing corporation could be accomplished by the sponsoring city at its discretion and that all funds and property owned by the corporation would then be delivered to the city. *Id.*

We believe that this corporation also is a governmental body for purposes of the Open Records Act. The corporation may be dissolved by the City of Tyler. Health & Safety Code § 221.081. Upon dissolution, all of the corporation's funds and other property automatically vest in the City of Tyler. *Id.* § 221.085. Open Records Decision No. 601 (1992) is applicable to this situation.

You contend that the request is so "global" in nature that it would be "unduly burdensome" to furnish this office with copies of the requested records, to cite the specific exceptions that may be applicable, or to identify the portions of records that may fall within these exceptions. A governmental body should make a good faith effort to relate a request to information held by the governmental body. Open Records Decision No. 561 (1990). When a governmental body receives a broad request, it may advise the requestor of the types of information available so that the requestor may narrow the request. *Id.* Also, when a governmental body seeks a decision from this office, it is *required* to state the exceptions that apply. Gov't Code § 552.301(a). If a voluminous amount of information was requested, the governmental body may submit representative samples of records to this office rather than a copy of every document requested. *Id.* § 552.301(b)(3). The samples should be labeled to indicate which exceptions apply to which portions of the documents. *See id.* § 552.301(b)(4).

You state that even if the corporation is subject to the Open Records Act, some of the records requested may be confidential. Since you have not submitted such records to this office for review, we are unable to determine whether any of the documents at issue are confidential. Should you wish this office to review documents to determine whether information is confidential, you should submit those documents, properly marked to show which portions you believe to be confidential, to this office within ten days after receipt of this letter. *See id.* § 552.352 (distribution of confidential information is criminal offense). The other information at issue must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 36052

cc: Ms. Sally Reagan
16406 Fondren Grove Drive
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